

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

MICHAEL BLAINE ARDIZONE PLAINTIFF
VS. CIVIL ACTION NO. 5:23-cv-79-DCB-BWR
JAMES BRUMFIELD, et al. DEFENDANTS

ORDER ADOPTING REPORT & RECOMMENDATION

This MATTER is before the Court on Magistrate Judge Rath's Report and Recommendation ("Report") [ECF No. 34]. The Report was entered on May 2, 2024, and objections to it were due by May 16, 2024. Neither party has filed an objection, and the time to do so has elapsed.

Judge Rath recommends that the matter be dismissed without prejudice for Michael Blaine Ardizone ("Plaintiff")'s failure to prosecute this matter. [ECF No. 34] at 2. Judge Rath notes that the Court delivered the Order Setting Omnibus Hearing, along with the Notice of Hearing, to Plaintiff's updated address, and that the delivered mail was not returned to the Court as undeliverable. [ECF No. 34] at 1. Still, Plaintiff failed to appear in Court at the scheduled Omnibus Hearing. [ECF No. 34] at 2. Accordingly, Judge Rath determined that Plaintiff no longer displays an interest in pursuing his claims any further.

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Where there are no objections, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review to the Report. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989).

After conducting a de novo review of the Report, the Court agrees with Judge Rath's recommendation. Accordingly, the Report is ADOPTED and Plaintiff's Complaint is hereby DISMISSED WITHOUT PREJUDICE.

A Final Judgment shall be entered of even date herewith pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this 30th day of May, 2024.

/s/ David Bramlette
DAVID C. BRAMLETTE
UNITED STATES DISTRICT JUDGE